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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,275	12/21/2001	Paul Schweizer	115-011459	3957

7590 07/24/2003

William H Logsdon
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

EXAMINER

SMITH, JAMES G

ART UNIT	PAPER NUMBER
	3765

DATE MAILED: 07/24/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/936,275	SCHWEIZER, PAUL
Examiner	Art Unit	
James G Smith	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 31 March 2003 .

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 12-17 and 20-31 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 12-17 and 20-31 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11. 6) Other: _____

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 12-17 and 20-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "it's mouth" in line 3. There is insufficient antecedent basis for this limitation in the claim. The structure of the bottle has not been established to provide a mouth associated with the bottle.

3. Claims 17 and 30 recite the limitation "which bottle caps" in line 2. There is insufficient antecedent basis for this limitation in the claim. Previously the claim provides screw caps. Are the bottle caps and screw caps the same or different?

4. Applicant is advised that should claims 15-17 be found allowable, claims 23,26 and 30 (respectively) will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3765

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 12,13,16,26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated, as best understood, by Lin (Fr 2719207).

Lin provides a hanger that has a hook 30 connected to a base portion 10 that accepts a bottle shaped arm 40 within a holder incorporated in each end of the base portion. The bottle shaped member inherently form arms for the hanger. Each of the bottle shaped member are detachably removable from the base portion and hook (see fig 1). Further, the base portion has fastening parts 12 within the holders on each side of the base for accepting and holding the bottle shaped members.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 14,21 and 28 rejected under 35 U.S.C. 103(a) as being unpatentable over Lin '207 in view of Patton (318,790).

Lin provides all that is claimed, as discussed in paragraph 6 above, with the exception of a screw fitting in the holders in each side of the base portion. Patton '790 discloses that it is well known to provide holders with screw fittings for receiving threaded objects. The holders in Patton accept pipes, however, the general understanding afforded from Patton would have provided the artisan of ordinary skill in the hanger art with the basis to provide screw fitting within the holder. Therefore. It would have been obvious to one of

ordinary skill in the art to have provided the hanger and holder of Lin with the screw mount as taught by Patton in order to provide a more secure holding mechanism for the bottle shaped arms.

9. Claims 15,20,22,24,25,29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin '207 in view of Patton '790 as applied to claims 14,21 and 28 above, and further in view of Daugherty (5,423,291).

Lin, when viewed with Patton, discloses the invention as claimed, as discussed above in paragraph 8, with the exception of providing the holder portion from plastic and having the bottle shaped arms from plastic beverage bottles. Daugherty discloses that it is well known to provide receptacles or holders formed from plastic that accommodate plastic beverage bottles (see column 2, lines 49-50). While the specification is silent as to the make-up of the material of the holder, it is clear from the drawing that the material is plastic. MPEP section 608.02 designates specific cross section hatching to designate certain materials and the cross hatching on the drawing of the Daugherty patent indicates that the material is synthetic resin or plastic. Furthermore, since injection molding is a common method of manufacturing material to a specific shape it is obvious that the method that was used to produce the holder of Daugherty was injection molding. While the Daugherty holder is for a butterfly feeder, the teaching garnered from the disclosure provides evidence that the person of ordinary skill in the molding art would have realized the advantage of making threaded holders from injection molded plastic for receiving plastic bottles over other materials. Therefore it would have been obvious to one of ordinary skill in the art to have provided the injected molded plastic holder of Daugherty

in the device as taught by Lin, when viewed with Patton, in order to save cost and time in manufacturing. As to the plastic beverage bottle, Daugherty discloses that it is advantageous to use recycled soft drink bottles since they are made to hold liquid and are cost efficient since they recycle empty plastic bottles. It would have been obvious to one of ordinary skill in the art to have replaced the bottle shaped arms of Lin in view of Patton with the bottles of Daugherty in order to use recycled material and save cost on manufacturing.

10. Claims 17 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin '207 in view of Shaffer (5,881,675).

Lin essentially teaches the invention with the exception of using a bottle cap to hold the bottle shaped arms in the hanger portion. Shaffer discloses a holder that includes a bottle cap to hold the bottle in position (see fig 2). This is done to take advantage of insuring that the bottle is securely fastened in place. It would have been obvious to one of ordinary skill in the art to have provided the hanger and holder of Lin with the bottle and cap of Shaffer so as to provide for use of any recycled bottle with the holder. By providing the ability to use a recycled bottle the hanger/holder of Lin becomes portable and usable at any time regardless of desired end use as a hanger.

11. Applicant's arguments with respect to claims 12-17 and 20-31 have been considered but are moot in view of the new ground(s) of rejection.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pauli (2,376,269) discloses a hanger having bottle shaped elements attached to a hook portion.

Toldi (5,269,242) discloses a holder formed to accept a bottle.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James G. Smith whose telephone number is (703) 605-4225. The examiner can normally be reached on from 8:00 am to 5:00 pm, M-Th. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J Calvert, can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



JOHN J. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700